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United States Patent and Trademark Office

Trademark Trial and Appeal Board

In re Schering Aktiengesellschaft

Serial No. 75/732,837

Marilyn Matthes Brogan of Frommer Lawrence & Haug LLP for
Schering Aktiengesellschaft.

Kathryn Waters-Perez, Trademark Examining Attorney, Law
Office 112 (Janice O'Lear, Managing Attorney).

Before Seeherman, Hairston and Bucher, Administrative
Trademark Judges.

Opinion by Bucher, Administrative Trademark Judge:

Schering Aktiengesellschaft seeks to register the
service mark WOMEN'S LIFE STAGES on the Principal Register
for "educational services, namely, providing classes,
seminars, conferences, workshops, and the like, in the
field of female health care," in International Class 41.¹
However, registration was refused pursuant to Section
2(e)(1) of the Trademark Act, 15 U.S.C. 1052(e)(1), on the

¹ Application Serial No. 75/732,837, filed on June 21, 1999,
was based upon applicant's claim of a *bona fide* intention to use
the mark in commerce.

ground that applicant's mark is merely descriptive of its recited services.

The case has been fully briefed, but applicant did not request an oral hearing before this Board.

We reverse the refusal of registration.

The test for determining whether a mark is merely descriptive is whether the involved term immediately conveys information concerning a quality, characteristic, function, ingredient, attribute or feature of the product or service. In re Venture Lending Associates, 226 USPQ 285, 286 (TTAB 1985).

Applicant argues that:

... while the term WOMEN'S LIFE STAGES may be linked generally to women's issues and concerns, it is submitted that WOMEN'S LIFE STAGES is a vague and imprecise term with alternative meanings that fails to convey any specific or particular information about Applicant's educational services.

(Applicant's reply brief, p. 3).

The Trademark Examining Attorney asserts that WOMEN'S LIFE STAGES is merely descriptive because it describes a feature, function or subject matter of applicant's services. In support of her position, the Trademark Examining Attorney submitted definitions for "women," "life," and "stage." After examining these dictionary entries, the Trademark Examining Attorney contends that

these "... definitions make it clear that the applicant's mark describes a feature and function of the applicant's services, namely to provide consumers with education on the subject matter of women's health and the life changes associated with women and their health at different periods of time throughout their lives." (Trademark Examining Attorney's appeal brief, p. 4).

By contrast, applicant argues that these dictionary entries fail to show that the combined term has any meaning as applied to applicant's educational services.

In further support of her position, the Trademark Examining Attorney attached to her Office action of August 23, 2000 seven excerpts² drawn from the LEXIS/NEXIS database containing a variety of uses of this exact phrase of three words:

... potentially resolving the contradiction between Kaplan's view that teen mothers have little or no social support and Holloway et al.'s description of the socially rich contexts of adult low-income mothers by developing an explanatory framework of poor **women's life stages**. From very early on, poor girls learn the roles of motherhood out of necessity. Because poverty stretches family resources so thin, even preadolescent girls must take on a role Dodson terms "the family worker," assisting with childcare, ...

² Inasmuch as these sources included a periodical from Singapore, one from Canada and a wire service story, we have chosen to look at the excerpts from the four remaining NEXIS sources.

"No Stranger to Hard Times: Three Studies of Women in Poverty, by Kate Kruckemeyer," Oral History Review 26/2, June 22, 1999.

About 150 women listened to Guy-Sheftall and attended day-long workshops that included the state of affirmative action, **women's life stages** and the experience of early professional nurses in Miami...

"Feminists must embrace wider range of women, speaker says," Fort Lauderdale Sun Sentinel, April 6, 1997.

"Stress and **Women's Life Stages**" is the topic for a free Women's Educational Evening at King of Glory Lutheran Church... Indianapolis News, January 21, 1995.

... don't have a variety of vigorous psychological choices during their teen-age years. The coming of age challenges and experiences of young girls, is, I fear, mostly unexplored territory. There seems to be a huge hole in knowledge about the adolescent span of **women's life stages**. Wisconsin State Journal, January 2, 1994.

Based upon our review of these four NEXIS stories, we conclude that the term "women's life stages" appears to refer generally to passages in women's lives rather than referring specifically to health care or health care education. As such, they do not support the position taken by the Trademark Examining Attorney.

Then with the final Office action of June 5, 2001, the Trademark Examining Attorney attempted to support her position with a summary of the first twenty hits from her Internet search using the Google search engine. However,

we find that the majority of these excerpts do not use the phrase in a manner relevant to applicant's identified services, of which multiple hits from a UNESCO Web site are good examples:

Cultural changes in **women's life-stages**:
All over the world women's lives are changing. ... We must therefore readjust cultural codes so as to reflect the changing lives of women and, particularly, the change in their life-stages.
UNESCO - Society for International Development, 1995.
<http://firewall.unesco.org/culture/women/>

Of the remaining Web sites, five excerpts contain links or comprise direct references to Berlex Laboratories, Inc., applicant's subsidiary, whose use is the basis for the instant application, to wit:

Women's Life Stages
<www.womenslifestages.com>
Created by Berlex Laboratories, Inc. to provide valuable information about key issues in women's health. Berlex specializes in Diagnostic Imaging, Female Healthcare and Therapeutics for treatment of life-threatening and disabling diseases.
From <http://www.womans-clinic.com/links/>

Furthermore, a single article from Natural Foods Merchandiser accounts for three more hits, and this piece in its entirety focuses on the national placement of nutritional products within a marketing context. That leaves only the May 2001 heading on "Hormone Replacement Therapy" from the now-defunct Web site located at

<<treasuredesigns.com>> -- which brief hit does not even show the three words of interest ("women's life stages") used together.

After considering all of the evidence of record, we agree with applicant that the applied-for term provides only vague, indirect and imprecise information about its health care educational services. We find that the Trademark Examining Attorney has not established that, when applied to applicant's services, the term WOMEN'S LIFE STAGES immediately describes, without conjecture or speculation, a significant feature or function of applicant's health care educational services. We cannot agree with the Trademark Examining Attorney that this term possesses a "well understood and recognized meaning" in connection with applicant's services, with its attendant focus on women's reproductive status, hormones, etc. Rather, the majority of the uses drawn from the NEXIS and Internet excerpts focus generally on women's experiences, activities, jobs, demographics, etc., in a broad cultural sense (viz. UNESCO quotation). Even if a prospective client of applicant's services, upon seeing WOMEN'S LIFE STAGES, were immediately to think of "physical, mental or spiritual experiences at certain periods of time [in the lives of women] ..." (the Trademark Examining Attorney's

language in her brief, building upon the separate dictionary definitions), this does not make the mark merely descriptive. Rather, we agree with applicant that the term is still so vague or nebulous that, when used in conjunction with the identified services, it does not immediately convey information about a feature or characteristic of the health care educational services.

Decision: The refusal to register under Section 2(e)(1) of the Act is reversed.